

## **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:11-CV-270-H-KS

UNITED STATES *ex rel.* RICKEY  
HOWARD,

Plaintiff,

v.

CADDELL CONSTRUCTION  
COMPANY, INC., an Alabama  
Corporation; W.G. YATES & SONS  
CONSTRUCTION COMPANY, a  
Mississippi Corporation; and  
JULIAN MARIE BRESLOW,

Defendants.

**DECLARATION OF SARAH M.  
FRAZIER IN SUPPORT OF  
PLAINTIFF-RELATOR'S MOTION  
FOR AN ORDER DIRECTING  
PERSONAL SERVICE OF A  
DEPOSITION SUBPOENA BY THE  
U.S. MARSHAL**

I, Sarah M. Frazier, being over the age of 21, declare and state as follows:

1. The facts in this Declaration are based upon my personal knowledge, except as otherwise stated on information and belief. If called to testify, I could testify competently to the facts set forth in this Declaration.

2. I am a partner with Berg & Androphy in Houston, Texas and serve as co-counsel for the Plaintiff-Relator in this lawsuit.

3. I make this Declaration in support of Relator's Motion for an Order Directing Personal Service of a Deposition Subpoena by the U.S. Marshal. The information below describes my involvement with Plaintiff-Relator's efforts to serve non-party Mark Smith with a deposition subpoena.

4. I spoke with Mark Smith on August 9, 2017 at around 9:00 a.m. I had called to confirm his business address to serve the subpoena. That call confirmed

that he was at the Austin office of AECOM on Amberglen Boulevard. Mr. Smith said he did not want to cooperate with service in any way. I think I also asked him for his home address, but he would not provide it. He confirmed he had relevant information by indicating he remembered Rickey Howard and the project that is the subject of the lawsuit. He told me he is in Houston 50% of the time at an office on Interstate-10 West towards Katy, Texas. He said he wanted to meet maybe the next week about what he knew.

5. But after that conversation, he would not call or write me back to schedule the meeting or for any other purpose.

6. The same day as my telephone conversation with Mr. Smith, Easy Serve, a private process server, tried to serve him at AECOM's Amberglen Boulevard office. The two Declarations of Michael Forrest, which Plaintiff-Relator also submits, describe Easy Serve's efforts at service of Mr. Smith on this day and over the next several days.

7. Later in the day, I called and asked for Miriam Segura, who indicated to Easy Serve that she was Mr. Smith's secretary. She indicated the same to me. It was clear that she was in regular communication with Mr. Smith based on our discussion. Ms. Segura told me that Mr. Smith was in the Amberglen Boulevard office that morning when he and I spoke, but after our discussion, he left for New York. She said she didn't know how long he would be there, but he would not be officing at any of AECOM's New York City offices, because it was a client trip.

8. I tried to reach Mr. Smith after that a number of times, via telephone and LinkedIn message (essentially email), but have not heard back.

9. An Easy Serve process server has now attempted to serve Mr. Smith at AECOM's Amberglen Boulevard office a total of six times. These attempts are described in Mr. Forrest's declarations.

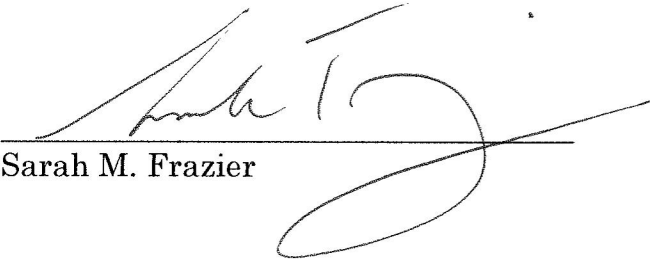
10. In addition, I understand from Easy Serve that on Friday September 8, when Easy Serve attempted service for the fifth time, the process server was told that Ms. Segura and Mr. Smith had both left for the day, but had been there earlier. Mr. Smith was evidently back from New York. Easy Serve made another attempt on Monday, September 11, but the process server was apparently told that Mr. Smith was simply "not available."

11. I have a direct office number for Mr. Smith that goes to a voicemail message with his name on it, and Miriam Segura has been easy to reach. I consequently believe that imparting actual notice of the deposition time and place to Mr. Smith is not a problem. Mr. Smith simply refuses to come out of his office to accept service.

12. Finally, my office has attempted to locate Mark Smith's home address in or around Austin, Texas to no avail. We believe his full name is John Mark Smith. In addition, we believe we have ascertained his date of birth, and believe that he maintained a prior address in Mississippi. But because of the commonness of his name, this information has not so far been sufficient to determine his current residence as an alternative place for service.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: September 14, 2017.



Sarah M. Frazier